

§ 127.305

§ 127.305 May a concern determined not to qualify as an EDWOSB or WOSB submit a self-certification for a particular EDWOSB or WOSB requirement?

A concern that SBA or an SBA-approved certifier determines does not qualify as an EDWOSB or WOSB may not represent itself to be an EDWOSB or WOSB, as applicable, unless SBA subsequently determines that it is an eligible EDWOSB or WOSB pursuant to the examination procedures under § 127.405, and there have been no material changes in its circumstances affecting its eligibility since SBA's eligibility determination. Any concern determined not to be a qualified EDWOSB or WOSB may request that SBA conduct an examination to determine its EDWOSB or WOSB eligibility at any time once it believes in good faith that it satisfies all of the eligibility requirements to qualify as an EDWOSB or WOSB.

Subpart D—Eligibility Examinations

§ 127.400 What is an eligibility examination?

(a) *Purpose of examination.* Eligibility examinations are investigations that verify the accuracy of any certification made or information provided as part of the certification process (including third-party certifications) or in connection with an EDWOSB or WOSB contract. In addition, eligibility examinations may verify that a concern meets the EDWOSB or WOSB eligibility requirements at the time of the examination. SBA will, in its sole discretion, perform eligibility examinations at any time after a concern self-certifies in CCR or ORCA that it is an EDWOSB or WOSB. SBA may conduct the examination, or parts of the examination, at one or all of the concern's offices.

(b) *Determination on conduct of an examination.* SBA may consider protest allegations set forth in a protest in determining whether to conduct an examination of a concern pursuant to subpart D of this part, notwithstanding a dismissal or denial of a protest pursuant to § 127.604. SBA may also consider information provided to the D/GC by a third-party that questions the eligi-

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bility of a WOSB or EDWOSB that has certified its status in ORCA or CCR in determining whether to conduct an eligibility examination.

§ 127.401 What is the difference between an eligibility examination and an EDWOSB or WOSB status protest pursuant to subpart F of this part?

(a) *Eligibility examination.* An eligibility examination is the formal process through which SBA verifies and monitors the accuracy of any certification made or information provided as part of the certification process or in connection with an EDWOSB or WOSB contract. If SBA is conducting an eligibility examination on a concern that has submitted an offer on a pending EDWOSB or WOSB procurement and SBA has credible information that the concern may not qualify as an EDWOSB or WOSB, then SBA may initiate a protest pursuant to § 127.600 to suspend award of the contract for fifteen (15) business days pending SBA's determination of the concern's eligibility.

(b) *EDWOSB or WOSB protests.* An EDWOSB or WOSB status protest provides a mechanism for challenging or verifying the EDWOSB or WOSB eligibility of a concern in connection with a specific EDWOSB or WOSB requirement. SBA will process EDWOSB or WOSB protests in accordance with the procedures and timeframe set forth in subpart F, and will determine the EDWOSB or WOSB eligibility of the protested concern as of the date the concern represented its EDWOSB or WOSB status as part of its initial offer including price. SBA's protest determination will apply to the specific procurement to which the protest relates and to future procurements.

§ 127.402 How will SBA conduct an examination?

(a) *Notification.* No less than five (5) business days before commencing an examination, SBA will notify the concern in writing that it will conduct an examination to verify the status of the concern as an EDWOSB or WOSB. However, SBA reserves the right to conduct a site visit without prior notification to the concern.